

106TH CONGRESS
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H. R. 4829

To provide for the application of certain measures to the People's Republic of China in response to the illegal sale, transfer, or misuse of certain controlled goods, services, or technology, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 12, 2000

Mr. GILMAN (for himself and Mr. MARKEY) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the application of certain measures to the People's Republic of China in response to the illegal sale, transfer, or misuse of certain controlled goods, services, or technology, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “China Nonproliferation
5 Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) ADVANCED CONVENTIONAL WEAPONS.—The
2 term “advanced conventional weapons” includes—

3 (A) long-range precision-guided munitions,
4 fuel air explosives, cruise missiles, low observ-
5 ability aircraft or vessels, other radar evading
6 aircraft or vessels, advanced military aircraft,
7 military satellites, electromagnetic weapons, and
8 laser weapons;

9 (B) advanced command, control, and com-
10 munications systems, electronic warfare sys-
11 tems, and intelligence collection systems; and

12 (C) such other items or systems as the
13 President may, by regulation, determine nec-
14 essary for purposes of this title.

15 (2) GOODS AND TECHNOLOGY.—The terms
16 “goods” and “technology” mean—

17 (A) any article, natural or manmade sub-
18 stance, material, supply, or manufactured prod-
19 uct, including inspection and test equipment;
20 and

21 (B) any information and know-how (wheth-
22 er in tangible form, such as models, prototypes,
23 drawings, sketches, diagrams, blueprints, or
24 manuals, or in intangible form, such as training
25 or technical services) that can be used to de-

1 sign, produce, manufacture, utilize, improve the
2 performance of or reconstruct goods, including
3 computer software and technical data.

4 (3) PERSON.—The term “person” means—

5 (A) any United States or People’s Republic
6 of China individual, partnership, corporation, or
7 other form of association, or any of their suc-
8 cessor entities, parents, or subsidiaries;

9 (B) any other nongovernmental entity, or-
10 ganization, or group, that is organized under
11 the laws of the United States or the People’s
12 Republic of China or has its principal place of
13 business in the United States or the People’s
14 Republic of China;

15 (C) any governmental entity of the Peo-
16 ple’s Republic of China operating as a business
17 enterprise; and

18 (D) any successor, subunit, or subsidiary
19 of any entity described in subparagraphs (A)
20 through (C).

21 (4) PROLIFERATION ACTIVITY.—The term
22 “proliferation activity” means the activity described
23 in section 3(a)(1).

24 (5) STATE-OWNED ENTERPRISE OF THE PEO-
25 PLE’S REPUBLIC OF CHINA.—

1 (A) IN GENERAL.—The term “state-owned
2 enterprise of the People’s Republic of China”
3 means a person who is affiliated with or wholly
4 owned, controlled, or subsidized by the Govern-
5 ment of the People’s Republic of China or the
6 People’s Liberation Army and whose means of
7 production, products, and revenues are owned
8 or controlled by a central or provincial govern-
9 ment authority. A person shall be considered to
10 be state-owned if—

11 (i) the person’s assets are primarily
12 owned by a central or provincial govern-
13 ment authority;

14 (ii) a substantial proportion of the
15 person’s profits are required to be sub-
16 mitted to a central or provincial govern-
17 ment authority;

18 (iii) the person’s production, pur-
19 chases of inputs, and sales of output, in
20 whole or in part, are subject to state, sec-
21 toral, or regional plans; or

22 (iv) a license issued by a government
23 authority classifies the person as state-
24 owned.

25 (B) EXCEPTION.—Any person that—

(i) is a qualified foreign joint venture or is licensed by a governmental authority as a collective, cooperative, or private enterprise; or

(ii) is wholly owned by a foreign person,

shall not be considered to be state-owned.

(C) QUALIFIED FOREIGN JOINT VENTURE.—The term “qualified foreign joint venture” means any person—

(i) which is registered and licensed in the agency or department of the Government of the People’s Republic of China concerned with foreign economic relations and trade as an equity, cooperative, contractual joint venture, or joint stock company with foreign investment;

(ii) in which the foreign investor partner and a person of the People’s Republic of China share profits and losses and jointly manage the venture;

(iii) in which the foreign investor partner holds or controls at least 25 percent of the investment and the foreign investor partner is not substantially owned

1 or controlled by a state-owned enterprise of
2 the People's Republic of China;

3 (iv) in which the foreign investor part-
4 ner is not a person of a country the gov-
5 ernment of which the Secretary of State
6 has determined under section 6(j) of the
7 Export Administration Act of 1979 (50
8 U.S.C. App. 2405(j)) to have repeatedly
9 provided support for acts of international
10 terrorism; and

11 (v) which does not use state-owned
12 enterprises of the People's Republic of
13 China to export its goods or services.

14 (6) UNITED STATES ASSISTANCE.—The term
15 “United States assistance” means—

16 (A) any assistance under the Foreign As-
17 sistance Act of 1961, other than urgent human-
18 itarian assistance or medicine;

19 (B) sales and assistance under the Arms
20 Export Control Act;

21 (C) financing by the Commodity Credit
22 Corporation for export sales of agricultural
23 commodities; and

24 (D) financing under the Export-Import
25 Bank Act.

1 **SEC. 3. REPORTS ON PROLIFERATION BY PEOPLE'S REPUB-**
2 **LIC OF CHINA.**

3 (a) REPORTS.—

4 (1) IN GENERAL.—The President shall, at the
5 times specified in subsection (b), submit to the Com-
6 mittee on International Relations of the House of
7 Representatives, the Committee on Foreign Rela-
8 tions of the Senate, the Committee on Armed Serv-
9 ices of the Senate, the Select Committee on Intel-
10 ligence of the Senate, and the Committee on Govern-
11 mental Affairs of the Senate, a report identifying
12 every person with respect to whom there is credible
13 information indicating that that person, on or after
14 January 1, 2000, transferred, retransferred, sold,
15 misused, or diverted from, or within, the People's
16 Republic of China to a foreign person or national of
17 the People's Republic of China involved in the devel-
18 opment or acquisition of nuclear, chemical, or bio-
19 logical weapons or ballistic or cruise missiles—

20 (A) goods, services, or technology listed
21 on—

22 (i) the Nuclear Suppliers Group
23 Guidelines for the Export of Nuclear Mate-
24 rial, Equipment and Technology (published
25 by the International Atomic Energy Agen-
26 cy as Information Circular INFCIRC/254/

1 Rev. 3/Part 1, and subsequent revisions)
2 and Guidelines for Transfers of Nuclear-
3 Related Dual-Use Equipment, Material,
4 and Related Technology (published by the
5 International Atomic Energy Agency as In-
6 formation Circular INFCIRC/254/Rev. 3/
7 Part 2, and subsequent revisions);

8 (ii) the Missile Technology Control
9 Regime Equipment and Technology Annex
10 of June 11, 1996, and subsequent revi-
11 sions;

12 (iii) the lists of items and substances
13 relating to biological and chemical weapons
14 the export of which is controlled by the
15 Australia Group;

16 (iv) the Schedules of the Convention
17 on the Prohibition of the Development,
18 Production, Stockpiling and Use of Chem-
19 ical Weapons and on Their Destruction, in-
20 cluding chemicals, precursors, and other
21 substances; or

22 (v) the Wassenaar Arrangement list of
23 Dual Use Goods and Technologies and
24 Munitions list of July 12, 1996, and subse-
25 quent revisions; or

(B) goods, services, or technology not listed on any list identified in subparagraph (A) but which nevertheless would be, if the goods, services, or technology were United States goods, services, or technology, prohibited or controlled for export to the People's Republic of China, or any tier IV countries as defined by the Bureau of Export Administration of the Department of Commerce, and that have the potential to make a contribution to the development, improvement, or production of nuclear, biological, or chemical weapons, or of ballistic or cruise missile systems, or advanced conventional weapons or munitions.

(2) ACTION BY PERSONS IDENTIFIED.—The President shall include in the report information on any action taken by a person identified in a prior annual report under this subsection that establishes that the person has discontinued, rectified, or mitigated a prior proliferation activity identified under this Act.

(3) ACTION BY PRESIDENT.—The President shall include in the report information on actions taken by the President under sections 4 and 5, in response to proliferation activities conducted by per-

1 sons identified in this section. The President shall
2 include in the report information on any determina-
3 tions made under section 7. If the President fails to
4 exercise the authority under sections 4 and 5, or if
5 the President makes a determination under section
6 7, with respect to a person identified in a report
7 submitted pursuant to this section, the President
8 shall include that information and the reasons there-
9 fore in the report required under this section.

10 (4) OTHER INFORMATION.—In addition to the
11 information required by paragraphs (1) through (3),
12 the President shall include in the report information
13 on—

14 (A) noncompliance with any international
15 nonproliferation treaties, agreements, arrange-
16 ments, or commitments (verbal, written, or oth-
17 erwise) by the People’s Republic of China, in-
18 cluding the Missile Technology Control Regime
19 and the annexes to that Regime;

20 (B) noncompliance with United States ex-
21 port control laws, Executive orders, regulations,
22 or export license conditions by the People’s Re-
23 public of China;

24 (C) the performance of the Department of
25 Commerce in licensing, regulating, and control-

1 ling the export of dual-use technology to the
2 People's Republic of China, including the num-
3 ber and type of post-shipment verifications con-
4 ducted and enforcement actions taken;

5 (D) the threats to the security interests of
6 the United States, or the security interests of
7 its allies resulting from—

8 (i) proliferation activities on the part
9 of the People's Republic of China or per-
10 sons identified in reports submitted under
11 this section;

12 (ii) the transfer or sale to the Govern-
13 ment of, or persons within the People's Re-
14 public of China of dual-use technologies
15 and goods listed on the Commerce Control
16 List;

17 (iii) the misuse or diversion by the
18 People's Republic of China of dual-use
19 technology; and

20 (iv) the transfer or sale of goods, serv-
21 ices, or technology identified by the Direc-
22 tor of Central Intelligence as having a sig-
23 nificant potential to make a contribution to
24 the development, improvement, or produc-
25 tion of nuclear, biological, or chemical

1 weapons, or of ballistic or cruise missile
2 systems, or advanced conventional weapons
3 or munitions; and

4 (E) transfers to persons of the People's
5 Republic of China of technology under arms
6 control and nonproliferation agreements and
7 opportunities for the People's Republic of China
8 to engage in proliferation activities under agree-
9 ments such as Nuclear Nonproliferation Treaty,
10 Chemical Weapons Convention, Comprehensive
11 Test Ban Treaty, and Biological Weapons Con-
12 vention.

13 (b) TIMING OF REPORTS.—The reports required
14 under subsection (a) shall be submitted no later than 90
15 days after the date of enactment of this Act, and on June
16 1 of each year thereafter.

17 (c) EXCEPTIONS.—Any person who—

18 (1) has engaged in the transfer, sale, or misuse
19 of any goods, services, or technology on behalf of, or
20 in concert with, the Government of the United
21 States; or

22 (2) has transferred, retransferred, or sold such
23 goods, services, or technology in a manner fully con-
24 sistent with all applicable international nonprolifera-
25 tion treaties, agreements, and commitments with re-

1 spect to which the People’s Republic of China is a
2 party,
3 is not required to be identified on account of that transfer
4 in any report submitted under this section, except to the
5 degree that credible information indicates that the par-
6 ticular transfer, sale, or misuse may have continued, or
7 been larger, more significant, or different in nature than
8 permitted on behalf of the Government of the United
9 States or under such international nonproliferation treaty
10 or agreement.

11 (d) SUBMISSION IN CLASSIFIED FORM.—Reports
12 shall be submitted in unclassified form, with classified an-
13 nexes as necessary.

14 **SEC. 4. APPLICATION OF MANDATORY MEASURES TO CER-**
15 **TAIN PERSONS.**

16 (a) APPLICATION OF MEASURES.—Subject to section
17 7, the President shall apply with respect to each person
18 identified in a report submitted pursuant to section 3(a),
19 for such period of time as the President may determine
20 but not less than one year, all of the measures described
21 in subsection (b).

22 (b) DESCRIPTION OF MEASURES.—The measures re-
23 ferred to in subsection (a) are the following:

24 (1) EXECUTIVE ORDER NO. 12938 PROHIBI-
25 TIONS.—Imposition of the measures set forth in sub-

1 sections (b) and (c) of section 4 of Executive Order
2 No. 12938.

3 (2) ARMS EXPORT.—Prohibition on United
4 States Government transfers or sales to such person
5 of any item on the United States Munitions List as
6 in effect on August 8, 1995, and termination of all
7 sales and after-sale servicing to such person of any
8 defense articles, defense services, or design and con-
9 struction services under the Arms Export Control
10 Act.

11 (3) DUAL-USE EXPORT PROHIBITION.—Denial
12 of licenses, suspension of existing licenses, and ter-
13 mination of all transfers or sales and after-sale serv-
14 icing for the transfer to such person of any item the
15 export of which is controlled under the Export Ad-
16 ministration Act of 1979 (as extended pursuant to
17 the International Emergency Economic Powers Act)
18 or the Export Administration regulations.

19 (4) PROCUREMENT SANCTION.—Prohibition on
20 the United States Government procuring, or enter-
21 ing into any contract for the procurement of, any
22 goods or services from such person.

23 (5) UNITED STATES ASSISTANCE PROHIBI-
24 TION.—Prohibition on the provision of United States

1 assistance in the form of grants, loans, credits, guar-
2 antees, or otherwise, to such person.

3 (6) SUSPENSION OF AGREEMENTS.—Immediate
4 suspension of any agreements or efforts for the co-
5 development or co-production with such person of
6 any item on the United States Munitions List.

7 (c) EFFECTIVE DATE OF MEASURES.—Each meas-
8 ure imposed pursuant to subsection (a) shall take effect
9 with respect to such person 30 days after the date that
10 the report identifying the person is submitted to Congress.

11 (d) PUBLICATION IN FEDERAL REGISTER.—Notice
12 of the imposition of the measure described in subsection
13 (b) to a person identified pursuant to section 3(a) shall
14 be published in the Federal Register, unless the President
15 determines that doing so would threaten the national secu-
16 rity or intelligence interests of the United States.

17 (e) DURATION OF MEASURES.—Each measure im-
18 posed under this section shall apply for a period of at least
19 12 months following the imposition of the measure and
20 shall cease to apply only if the President determines and
21 certifies to Congress that—

22 (1) credible information indicates that the per-
23 son with respect to whom the determination was
24 made under section 3(a) has ceased the activities for
25 which the measure was imposed;

1 (2) credible information indicates that the per-
2 son has taken reasonable steps to rectify the viola-
3 tion; and

4 (3) the President has received reasonable assur-
5 ances from the person that such person will not en-
6 gage in similar activities in the future.

7 **SEC. 5. APPLICATION OF ADDITIONAL MEASURES DI-**
8 **RECTED AT THE GOVERNMENT OF THE PEO-**
9 **PLE'S REPUBLIC OF CHINA.**

10 (a) IN GENERAL.—In addition to the mandatory
11 measures described in section 4 applied against persons
12 identified pursuant to section 3(a), the President shall
13 apply additional measures as follows against the People's
14 Republic of China:

15 (1) TIER 1 MEASURES.—The President shall
16 apply one or more of the measures listed in tier 1
17 that are not in effect under this or any other Act
18 or Executive order with respect to the People's Re-
19 public of China in conjunction with, and at the same
20 time, as the mandatory measures applied against the
21 person under section 4.

22 (2) TIER 2 MEASURES.—If, one year after the
23 measures described in section 4 are imposed, the
24 proliferation activities upon which the measures were
25 based are not rectified as described in section 4(e),

1 or the person has engaged in additional proliferation
2 activities, the President shall continue to apply the
3 measures described in section 4, any tier 1 measure
4 in effect, and shall also impose one or more tier 2
5 measures not in effect under this or any other Act
6 or Executive order with respect to the People's Re-
7 public of China.

8 (3) TIER 3 MEASURES.—If 2 years after the
9 measures described in section 4 are imposed, the
10 proliferation activities upon which the measures were
11 based are not rectified as described in section 4(e),
12 or the person has engaged in additional proliferation
13 activities, the President shall continue to apply the
14 measures described in section 4, any tier 1 or tier
15 2 measures in effect, and shall also impose one or
16 more tier 3 measures not in effect under this or any
17 other Act or Executive order with respect to the
18 People's Republic of China.

19 (b) DEFINITION OF TIER 1, TIER 2, AND TIER 3
20 MEASURES.—

21 (1) TIER 1 MEASURE.—The term “tier 1 meas-
22 ure” includes any or all of the following:

23 (A) Suspension of all military-to-military
24 contacts and exchanges between the People's
25 Republic of China and the United States.

1 (B) Suspension of all United States assist-
2 ance to the People’s Republic of China by the
3 United States Government.

4 (C) Prohibition on United States bank
5 loans or bond offerings in United States mar-
6 kets on the part of any national of the People’s
7 Republic of China or any state-owned enterprise
8 of the People’s Republic of China.

9 (D) Prohibition on the transfer or sale or
10 after-sale servicing, including the provision of
11 replacement parts, to the People’s Republic of
12 China or any national of the People’s Republic
13 of China of any item on the United States Mu-
14 nitions List and suspension of any agreement
15 with the People’s Republic of China or any na-
16 tional of the People’s Republic of China or any
17 state-owned enterprise of the People’s Republic
18 of China for the co-development or co-produc-
19 tion of any item on the United States Muni-
20 tions List.

21 (2) TIER 2 MEASURE.—The term “tier 2 meas-
22 ure” includes any or all of the following:

23 (A) Suspension of all scientific, academic,
24 and technical exchanges between the People’s
25 Republic of China and the United States.

1 (B) Direction of the Export-Import Bank
2 of the United States not to approve the
3 issuance of any guarantees, insurance, exten-
4 sion of credit, or participation in the extension
5 of credit to the People’s Republic of China.

6 (C) Denial of access to the capital markets
7 of the United States by all state-owned enter-
8 prises of the People’s Republic of China.

9 (D) Prohibition on the transfer or sale to
10 the People’s Republic of China or any national
11 of the People’s Republic of China of any item
12 on the Commerce Control List that is controlled
13 for national security purposes and prohibition
14 of after-sale servicing, including the provision of
15 replacement parts for such items.

16 (3) TIER 3 MEASURE.—The term “tier 3 meas-
17 ure” includes any or all of the following:

18 (A) Prohibition on procurement by the
19 United States Government or entering into any
20 contract for the procurement of, any goods or
21 services from the People’s Republic of China or
22 any national of the People’s Republic of China.

23 (B) Designation of the People’s Republic
24 of China in a country tier under the Export Ad-

1 ministration Regulations that is higher than the
2 country tier in effect.

3 (C) Denial of access to the capital markets
4 of the United States by any company owned or
5 controlled by nationals of the People's Republic
6 of China.

7 (D) Prohibition on the transfer or sale to
8 the People's Republic of China or any national
9 of the People's Republic of China of any item
10 on the Commerce Control List and prohibition
11 of after-sale servicing, including replacement
12 parts for such items.

13 **SEC. 6. PROCEDURES FOR CONGRESSIONAL REVIEW.**

14 (a) WRITTEN JUSTIFICATION.—Any notification sub-
15 mitted by the President under section 3 indicating that
16 the President is not imposing a measure or exercising au-
17 thority under section 4 or 5 or that the President is mak-
18 ing a determination under section 7 shall include a written
19 justification describing in detail the facts and cir-
20 cumstances relating specifically to the person identified in
21 a report submitted pursuant to section 3(a) that supports
22 the President's decision not to exercise the authority of
23 section 4 or section 5 or the President's decision to make
24 a determination under section 7 with respect to that per-
25 son.

1 (b) CONGRESSIONAL ACTION.—If Congress receives
2 a notification described in section 3 and does not agree
3 with the justification described in subsection (a), the ap-
4 propriate measure shall be imposed with respect to the
5 person identified in the notification if a joint resolution
6 described in this section is enacted into law.

7 (c) JOINT RESOLUTION.—

8 (1) DEFINITION.—For purposes of this section,
9 a joint resolution means a resolution introduced by
10 any Member of Congress after the date the notifica-
11 tion described in section 3 is received, the resolving
12 clause of which contains only the following: “That
13 Congress does not agree with the justification con-
14 tained in the notification submitted by the President
15 pursuant to the China Nonproliferation Act on
16 _____ and that the President shall exer-
17 cise the mandatory measures under section 4 of the
18 Act and one or all of the tier ____ measures under
19 that Act.”; with the first blank space being filled
20 with the appropriate date and the second blank
21 space being filled with the appropriate tier.

22 (2) REFERRAL TO COMMITTEE.—

23 (A) SENATE.—A joint resolution intro-
24 duced in the Senate shall be referred to the
25 Committee on Foreign Relations of the Senate.

1 (B) HOUSE OF REPRESENTATIVES.—A
2 joint resolution introduced in the House of Rep-
3 resentatives shall be referred to the Committee
4 on International Relations of the House of Rep-
5 resentatives.

6 (C) REPORTING.—A joint resolution may
7 not be reported before the 8th day after the
8 date on which the joint resolution is introduced.

9 (3) DISCHARGE OF COMMITTEE.—If the com-
10 mittee to which a joint resolution is referred in ei-
11 ther House has not reported the joint resolution (or
12 an identical joint resolution) at the end of 15 cal-
13 endar days during which that House is in session
14 after the date on which the joint resolution is
15 introduced—

16 (A) the committee shall be deemed to be
17 discharged from further consideration of the
18 joint resolution; and

19 (B) the joint resolution shall be placed on
20 the appropriate calendar of that House.

21 (4) FLOOR CONSIDERATION.—

22 (A) IN GENERAL.—

23 (i) MOTION TO PROCEED TO CONSID-
24 ERATION.—When the committee to which a
25 joint resolution is referred in either House

1 has reported, or has been deemed to be
2 discharged (under paragraph (3)) from
3 further consideration of, a joint
4 resolution—

5 (I) it is at any time thereafter in
6 order (even though a previous motion
7 to the same effect has been disagreed
8 to) for any Member of that House to
9 move to proceed to the consideration
10 of the joint resolution; and

11 (II) all points of order against
12 the joint resolution (and against con-
13 sideration of the joint resolution) are
14 waived.

15 (ii) TREATMENT OF MOTION.—A mo-
16 tion under clause (i)—

17 (I) is privileged in the Senate
18 and is highly privileged in the House
19 of Representatives;

20 (II) is not debatable; and

21 (III) is not subject to amend-
22 ment, a motion to postpone, or a mo-
23 tion to proceed to the consideration of
24 other business.

1 (iii) NO MOTION TO RECONSIDER.—A
2 motion to reconsider the vote by which a
3 motion under clause (i) is agreed to or dis-
4 agreed to shall not be in order.

5 (iv) AGREEMENT TO MOTION.—If a
6 motion under clause (i) is agreed to, the
7 joint resolution shall remain the unfinished
8 business of the House until the House dis-
9 poses of the joint resolution.

10 (B) DEBATE.—

11 (i) TIME.—Debate on a joint resolu-
12 tion, and on all debatable motions and ap-
13 peals in connection with consideration of a
14 joint resolution, shall be limited to not
15 more than 10 hours, which shall be divided
16 equally between those favoring and those
17 opposing the joint resolution. A motion
18 further to limit debate is in order and not
19 debatable.

20 (ii) AMENDMENTS AND MOTIONS OUT
21 OF ORDER.—An amendment to a joint res-
22 olution, a motion to postpone, to proceed
23 to the consideration of other business, or
24 to recommit such a joint resolution, or a
25 motion to reconsider the vote by which

1 such a joint resolution is agreed to or dis-
2 agreed to is not in order.

3 (C) VOTE ON FINAL PASSAGE.—A vote on
4 final passage of the joint resolution shall be
5 taken in each House on or before the close of
6 the 15th calendar day during which that House
7 is in session after the resolution is reported by
8 the committee of that House to which it was re-
9 ferred, or after the committee has been dis-
10 charged from further consideration of the reso-
11 lution.

12 (D) RULINGS OF THE CHAIR OF PROCE-
13 DURE.—Appeals from the decisions of the Chair
14 relating to the application of the rules of either
15 House to the procedure relating to a joint reso-
16 lution shall be decided without debate.

17 (5) COORDINATION WITH ACTION BY OTHER
18 HOUSE.—

19 (A) IN GENERAL.—If, before the passage
20 by 1 House of a joint resolution of that House,
21 that House receives from the other House a
22 joint resolution, the procedures stated in this
23 paragraph shall apply.

1 (B) NO REFERRAL.—The joint resolution
2 of the other House shall not be referred to a
3 committee.

4 (C) PROCEDURE.—With respect to a joint
5 resolution of the House receiving the joint
6 resolution—

7 (i) the procedure in that House shall
8 be the same as if no joint resolution had
9 been received from the other House; but

10 (ii) the vote on final passage shall be
11 on the joint resolution of the other House.

12 (6) RULES OF THE SENATE AND THE HOUSE
13 OF REPRESENTATIVES.—This subsection is enacted
14 by Congress—

15 (A) as an exercise of the rulemaking power
16 of the Senate and the House of Representa-
17 tives, respectively; and

18 (i) is deemed a part of the rules of
19 each House, respectively, but applicable
20 only with respect to the procedure to be
21 followed in that House in the case of a
22 joint resolution; and

23 (ii) supersedes other rules only to the
24 extent that the subsection is inconsistent
25 with those rules; and

1 (B) with full recognition of the constitu-
2 tional right of either House to change the rules
3 (so far as the rules relate to the procedure of
4 that House) at any time, in the same manner
5 and to the same extent as in the case of any
6 other rule of that House.

7 **SEC. 7. DETERMINATION EXEMPTING PERSON OR THE PEO-**
8 **PLE'S REPUBLIC OF CHINA FROM SECTIONS 4**
9 **AND 5.**

10 (a) IN GENERAL.—Sections 4 and 5 shall not apply
11 to a person or to the People's Republic of China 15 days
12 after the President reports to the Committee on Inter-
13 national Relations of the House of Representatives, the
14 Committee on Foreign Relations of the Senate, the Com-
15 mittee on Armed Services of the Senate, the Select Com-
16 mittee on Intelligence of the Senate, and the Committee
17 on Governmental Affairs of the Senate, that the President
18 has determined, on the basis of information provided by
19 that person, or otherwise obtained by the President,
20 that—

21 (1) the person did not, on or after January 1,
22 2000, knowingly transfer to or export from the Peo-
23 ple's Republic of China the goods, services, or tech-
24 nology the apparent transfer or export of which

1 caused that person to be identified in a report sub-
2 mitted pursuant to section 3(a);

3 (2) the person is subject to the primary juris-
4 diction of a government that is an adherent to one
5 or more relevant nonproliferation regimes, the per-
6 son was identified in a report submitted pursuant to
7 section 3(a) with respect to a transfer of goods,
8 services, or technology described in section 3(a)(1),
9 and such transfer was made consistent with the
10 guidelines and parameters of all such relevant re-
11 gimes of which such government is an adherent; or

12 (3) it is important to the national security of
13 the United States not to apply the provisions of sec-
14 tion 4 or 5.

15 (b) OPPORTUNITY TO PROVIDE INFORMATION.—
16 Congress urges the President—

17 (1) in every appropriate case, to contact in a
18 timely fashion each person identified in each report
19 submitted pursuant to section 3(a), or the govern-
20 ment with primary jurisdiction over such person, in
21 order to afford such person or government, the op-
22 portunity to provide explanatory, exculpatory, or
23 other additional information with respect to the
24 transfer that caused such person to be identified in
25 a report submitted pursuant to section 3(a); and

1 (2) to exercise the authority in subsection (a) in
 2 all cases where information obtained from a foreign
 3 person identified in a report submitted pursuant to
 4 section 3(a), or from the government with primary
 5 jurisdiction over such person, establishes that the ex-
 6 ercise of such authority is warranted.

7 (c) SUBMISSION IN CLASSIFIED FORM.—The deter-
 8 mination and report of the President under subsection (a)
 9 should be submitted in unclassified form, with classified
 10 annexes as necessary.

11 **SEC. 8. NOTIFICATION TO SECURITIES COMMISSION OF IN-**
 12 **CLUSION IN REPORT.**

13 (a) DEFINITIONS.—In this section, the following defi-
 14 nitions shall apply:

15 (1) COMMISSION.—The term “Commission”
 16 means the Securities and Exchange Commission.

17 (2) REGISTERED NATIONAL SECURITIES ASSO-
 18 CIATION.—The term “registered national securities
 19 association” means an association registered under
 20 section 15A(b) of the Securities Exchange Act of
 21 1934 (15 U.S.C. 78o–3(b)).

22 (3) REGISTERED NATIONAL SECURITIES EX-
 23 CHANGE.—The term “registered national securities
 24 exchange” means a national securities exchange reg-

1 istered under 6 of the Securities Exchange Act of
2 1934 (15 U.S.C. 78f).

3 (4) REGISTRATION STATEMENT.—The term
4 “registration statement” has the same meaning as
5 in section 2 of the Securities Act of 1933 (15 U.S.C.
6 77b).

7 (5) SECURITIES LAWS.—The terms “securities
8 laws” and “security” have the same meanings as in
9 section 3 of the Securities Exchange Act of 1934
10 (15 U.S.C. 78c).

11 (b) NOTIFICATION TO THE COMMISSION.—Each re-
12 port prepared by the President under section 3 shall be
13 transmitted to the Commission at the times specified in
14 section 3(b).

15 (c) REGULATIONS.—Not later than 6 months after
16 the date of enactment of this Act, the Commission shall
17 promulgate regulations—

18 (1) to ensure that securities investors are noti-
19 fied of the identity of any person included in a re-
20 port prepared by the President under section 3, the
21 securities of which are listed, or authorized for list-
22 ing, on a registered national securities exchange (or
23 tier or segment thereof) or by a registered national
24 securities association; and

1 (2) to require each person included in a report
2 of the President under section 3 to provide notice of
3 such inclusion in each written report, statement, or
4 other filing or notice required from that person
5 under the securities laws, including—

6 (A) any registration statement;

7 (B) any annual or quarterly report, state-
8 ment, or other filing or notice;

9 (C) any proxy, consent, authorization, in-
10 formation statement, or other notice required to
11 be sent to shareholders with respect to any se-
12 curity registered pursuant to the securities
13 laws;

14 (D) any report, statement, or other filing
15 or notice required in connection with an initial
16 public offering; and

17 (E) any report, statement, or other filing
18 required in connection with a merger, acquisi-
19 tion, tender offer, or similar transaction.

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